IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

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WRIT PETITION NO : 2202 of 1997

Between:

M/s.Navbharath Enterprises Ltd.,

Having its registered office at

6-3-654, Somajiguda, Hyderabad.

Rep.by its Chairman & Managing Director,

Sri A.S.Chowdhri.

..... PETITIONER

AND

1 Govt. of Andhra Pradesh,

Rep.by its Prl.Secretary, Revenue (UC.III) Department,

A.P.Secretariat, Hyderabad.

2 The Special Officer &

Competent Authority, Urban Land Ceiling,

Hyderabad.

3 The Commissioner,

Land Reforms and Urban Land Ceiling,

Hyderabad.

4 The Hyderabad Stock Exchange Ltd.,

Rep.by its President N.Ranga Prasad,

S/o Sri N.Bhanu Prasad, R/o 3-6-275,

Himayat Nagar, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records relating to and in connection with the G.O.Ms.No.826, Revenue (UC.III) Department, dated 10-10-1996 and issue an appropriate writ, order or direction more particularly in the nature of certiorari for declaring the action of the Respondent No.1 as illegal, unconstitutional and violative of Articles 14, 19(1)(g), 21 and 300-A of the Constitution of India and the principles of natural justice.

Counsel for the Petitioner:MR.D.JAGAN MOHAN REDDY

Counsel for the Respondent Nos.1 to 3: GP FOR REVENUE

Counsel for the Respondent No.4: MR. N.SUBBA REDDY

The Court made the following ORDER:

It is not in dispute that an exemption was granted to the petitioner-company to hold surplus land, which was declared under the provisions of the Urban Land (Ceiling and Regulation) Act, 1976 (for short "the Act") in G.O.Ms.No.4711, dated 31-10-1980 with the following conditions:

a. *that it should not be leased out or sold without the permission of the Government.*

b. *that the land should be utilized for the purpose for which it is retained within three years from the date of grant of exemption failing which the exemption granted shall stand cancelled and the excess land will be subject to the provisions of the Urban Land (Ceiling and Regulation) Act, 1976.*

c. *that the land may be mortgaged to any Bank as defined in Clause (iii) of sub-section (1) of Section 19 for the purpose of raising finance for the industry.*

The petitioner-company itself admitted that due to the scaling down of the trading

activity of the company and to meet the funds required to maintain the office, the Board of Directors of the petitioner-company decided to alienate the structures, which are in occupation of the company since its construction and accordingly, the fourth respondent-Hyderabad Stock Exchange Limited offered to purchase the above said structure and an agreement was entered into and permission was sought from the competent authority under the Income-tax Act. While so, the Government issued a show cause notice dated 05-03-1994 to the petitioner-company as to why the exemption granted earlier in G.O.Ms.No.4711, dated 31-10-1980 cannot be withdrawn. The petitioner-company submitted an explanation to the Government but the Government issued the impugned G.O.Ms.No.826, dated 10-10-1996 withdrawing the orders issued in G.O.Ms.No.4711, dated 31-10-1980. Hence, the present writ petition.

The learned counsel for the petitioner-company contends that once the use of the land was altered to that of land holding structure, the same will falls outside the purview of the Act under Section 2(c) and the petitioner-company is entitled to alienate the same and the conditions imposed in G.O.Ms.No.4711, dated 31-10-1980 did not debar the petitioner from disposing of the said property and that without appreciating the explanation submitted by the petitioner-company properly, the Government had withdrawn the orders issued in G.O.Ms.No.4711, dated 31-10-1980 through the impugned G.O.Ms.No.826, dated 10-10-1996. He further contends that even on such withdrawal, the land cannot be treated as a vacant land and the respondents cannot put any fetters on the petitioner-company from holding the land.

Once the exemption is granted to the petitioner-company to hold the surplus land subject to the conditions that it should not be leased out or sold without the permission of the Government, merely because some constructions were made, the petitioner-company got absolute right to alienate the property *de hors* the conditions mentioned in the G.O.Ms.No.4711. In view of the same, I see no force in the submission made by the learned counsel for the petitioner-company. Therefore, the impugned G.O. passed by the Government do not suffer from any infirmity or illegality warranting interference of this Court in exercise of certiorari jurisdiction.

The writ petition is accordingly dismissed. No costs.

2nd SEPTEMBER, 2004.

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To

1 The Principal Secretary, Govt. of Andhra Pradesh,

Revenue (UC.III) Department,

A.P.Secretariat, Hyderabad.

2 The Special Officer &

Competent Authority, Urban Land Ceiling,

Hyderabad.

3 The Commissioner,

Land Reforms and Urban Land Ceiling,

Hyderabad.

4 Two CCs to the Government Pleader for Revenue, A.P.High Court Buildings, Hyderabad.

5 Two CD copies.